

RECEIVED

NOV 14 2024

PUBLIC SERVICE  
COMMISSION

PO BOX 703  
COVINGTON, KY 41012

November 14, 2024

Ms. Linda C. Bridewell, P.E.  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602

Dear Ms. Bridewell,

I am in receipt of the November 4, 2024, Brittany Hayes Koenig with Honaker Law Office, missive and attachment thereto regarding my case number 2024-00123. This letter will detail my response to the precepts and arguments contained in their legal document. Clearly you will see that Duke Energy is in error in part if not completely.

In "I INTRODUCTION", the attorney asserts correctly that their tech visited my residence around October 25, 2023 to determine if I qualified for the residential rate versus the commercial rate. Their employee wrote that "unit one was a vacant commercial space and thus the commercial rate applies. Any renovation to the commercial space turning it into residential living space, can be evaluated to determine rate change. **The bill rate does not change because the building or unit is vacant.**" (emphasis added)

The energy company's employee was in error from the beginning. One of the many problems with the position of Duke Energy is that the building is **not** vacant; it is all part of my living space. Quirky though it may be for a resident to occupy two floors, one of which was previously a commercial space, there are certainly more unusual arrangements that may not fit conventional definitions.

Further in "II ANSWER", number 8, Duke denies informing me that the space requires a bathroom, bedroom and kitchen on both floors to apply for residential rates. Their assertion is false. I was informed by their Indiana representative on the phone at least twice that these specificities were necessary for my residence to be classified as such. As I have retorted previously, many if not most residences do not possess a kitchen, full bath or living room on both floors.

In "III AFFIRMATIVE DEFENSE" Duke's counsel declares that I have not set forth sufficient facts as a basis for relief. They cite various portions of KRS to support their affirmative defense and therefore request dismissal of my complaint. I disagree with both their contentions and conclusions. They rely on KRS 278.160 to uphold their defense, when in fact they are in violation of 278.160 (2) which provides: "No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules..." That is precisely the activity Duke is engaging in vis-à-vis the continued charging of commercial rates for my residential real estate.

Their response also applies both KRS 278.260 and KRS 278.270 to support their conjectures. In so doing they duck their own responsibility to correctly bill me for the residential rate instead of the considerably more expensive commercial one. But in any event my complaint should not be dismissed, as it does

meet the burden of proof in that it deserves a full hearing before the commission, based on Duke's own evidence in this KRS section. I have filed the complaint in writing as prescribed by this statute. According to the applicable KAR regulations that your office sent me, upon filing of a complaint, the commission shall examine same to ascertain if it establishes a prima facie case and conforms to the administrative regulations. If so Duke should be served, which they were. Therefore, it is abundantly clear that my burden of proof has been met and the commission should schedule a hearing and Duke's request for dismissal of the complaint should not be entertained.

In their various Exhibits, 1, 2 and 3, Duke fails to acknowledge their ruse and prefers to play explication games. "Where a portion of a residential service is used for purposes of a commercial or public character, Rate DS is applicable to all services." The flaw in this position is that there is no portion of my residence that is used for purposes of a commercial or public character. I assume they rely on that one word, "character" to issue a blanket coverage that is unnecessary in my specific instance. Moreover, I should not be required or expected to alter my historic property, just to qualify for the proper utility rate. To do so would be idiotic, even if easily and cheaply possible, which it is neither. They rely on semantics; I rely on facts. In their email exhibits, they declare "A vacant property would remain at the current rate from the time of vacancy." The problem with this declaration is that the property is not now, nor has it been, vacated. There is no longer, nor has there been a business there in a long time, but it again, is not has not been and will not be vacated. Thus the residential rate should apply, despite their protestations to the erroneous opposite.

And please note that in their exhibits, their company emails include language about changing the status of the "vacant" property. Again the weakness in this position is that the property is not vacant. It was simply changed from business to residence with the business vacating, not the building being vacated. Citing as examples for changes to make it residential they purport: "If the vacant property changed the status...the field investigator would need to note on premise-actual living accessed on premise. (example if any commercial signage on premises, it would have to be removed, does the property now have actual residents living space-bedroom, bath, kitchen, etc.) Again while not vacant, I need only go the building next to me that is a multiple residence, with antique, historic signage on it, which prevented its demolition several decades ago. If a building cannot have historic signage on it to qualify for the residential rate, how can the occupants of this structure get that rate, which they do. Duke's arguments simply do not pass muster. To put it simply this whole problem stems from the initial inspectors report, where their furtive employee wrote: "I saw vacant commercial space not being used, but the commercial rate still applies." What she saw was formerly commercial space being utilized for part of my residence.

Based on all of the above, I respectfully request that the Kentucky Public Service Commission schedule a hearing over this matter at its earliest convenience. Thank you.

Sincerely,

Sam Droganes